

smoking is for individuals to make better choices and for our culture to change, as it has already changed, when it comes to consumption of tobacco products. I think about other examples over time where our culture has changed to where we now do things that are safer and better today than we used to when I was growing up. For example, when I was growing up, seatbelt use was very sparse. As a matter of fact, you could buy a car, and if you wanted a seatbelt, you would have to have somebody install it for you because it didn't come as original, manufactured equipment. Today we know seatbelt use is not only much broader and more widely spread, but you can't get into a car and turn it on without being dinged to death or otherwise reminded that you need to put your seatbelt on. The truth is it has made driving in cars a lot safer. It has kept people healthier, even in spite of accidents they have been involved in, and it has—not coincidentally—helped reduce medical admissions and medical expenses as well.

We know there is also today a greater societal stigma against drunk driving. That was not always the case. As a matter of fact, as a result of many years of public education and stricter law enforcement, now people take a much smarter and well-informed view of drinking and particularly the risks of drinking and driving. We know also that many Americans, in dealing with energy, are dealing more responsibly by recycling and conserving energy. Of course, millions of Americans are trying to do better when it comes to eating right and exercising more frequently so they can protect their own health and engage in preventive medicine, so to speak.

Government can't do it all because, as I said earlier, I think individuals bear a responsibility to make good choices. One thing government can do is help inform those choices. I think this regulation bill will help smokers make better decisions by knowing what is in the tobacco product and allowing the FDA to regulate this drug.

I believe the real drivers of change, though, are not just the government, not the nanny State that will tell us what we can and cannot do, but cultural influences and, indeed, economic incentives which are more powerful than government regulations in influencing individual behavior.

Some have said: Why in the world would we give tobacco regulation to the Food and Drug Administration, a Federal agency with the primary job of determining safety of food and drugs and medical devices as well as efficacy. As a matter of fact, many people have been tempted to buy prescription drugs, let's say, over the Internet but not knowing where they were actually manufactured, whether they were actually counterfeit drugs. So there is not only the question of safety—in other words, if you put it in your mouth, is it going to poison you—but it is also if

you put it in your mouth and you take it expecting it actually to be effective against the medical condition you want to treat. The FDA is a regulatory agency that is supposed to determine not only safety of food and drugs but also their efficacy.

There is a certain anomaly in giving the FDA regulatory authority for something we know will kill people—and does, in fact, kill hundreds of thousands of people—when used as intended by the manufacturer, but I think this is a step in the right direction. I think the world would be a better place—we would all certainly be healthier—if people chose not to use tobacco, and many have made that choice due to the cultural influences we have mentioned, as well as some of the economic incentives that are provided by employers.

As we undertake the task of reforming our health system in America, something that comprises 17 percent of our gross domestic product, I think we could well learn from some of the successful experiences and experiments some employers have used and some workers have used when it comes to drugs such as tobacco. For example, one large grocery company headquartered out in California—Safeway—which also has many employees in Texas, as an employer, they noticed that 70 percent of their health care costs were related to individual behavior, things such as diet, exercise, and, yes, indeed, smoking. They recognized that if they could encourage their employees to get age-appropriate diagnostic procedures for cancer—colon cancer, for example—if they could encourage their employees to quit smoking, if they could encourage their employees to watch their weight and get exercise and to watch their blood pressure and take blood pressure medication where indicated, where they could encourage them to take cholesterol-lowering medication, if they had high cholesterol, that they could not only have healthier, more productive employees, they could actually bring down the costs of health care for their employees as well as their own costs. I think Safeway is just one example of many successful innovators across this country, where people are encouraged to do the right thing for themselves and for their employers and for their families. I think these are the kinds of issues that ought to guide us as we debate health care reform during the coming weeks.

I believe this legislation fills the necessary gap in FDA's regulatory authority, an agency that regulates everything from food to prescription drugs, to medical devices. The only reason tobacco was left out of it is because of the political clout of tobacco years ago. This legislation fills that gap and I think presents the most pragmatic approach to try to deal with the scourge of underage smoking and marketing to children, as well as informing consumers of what they need to know in order to make smart choices for

their own health and for the health of their family.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. BOXER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mrs. BOXER. Madam President, I ask unanimous consent that the period of morning business be extended until 12:30 p.m., with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT

Mrs. BOXER. Madam President, I came to the floor to speak in support of the Family Smoking Prevention and Tobacco Control Act and also to express my gratitude to Senator KENNEDY and my colleagues who have pushed so hard for the consideration of this important bill. I am so pleased about the vote last night which allowed us to move forward on this bill.

This would be a historic accomplishment for this Senate, the House, and for the President. I am at a loss to understand how Senators could stand in opposition to this important legislation. To prove the point, I could ask a couple of questions:

What is the leading cause of preventable death in this country, killing over 400,000 Americans a year? The leading cause of preventable death is tobacco.

What causes more deaths than HIV/AIDS, illegal drug use, alcohol use, motor vehicle accidents, suicides, and murders combined? I guess if you ask people out there, they may not know that the answer is tobacco.

What are the only products on the market that kill one-third of their purchasers? Madam President, if you had a health device or any product that kills one-third of its purchasers, we would outlaw that product in a heartbeat. We are not outlawing tobacco; we are simply saying tobacco needs to be controlled by the FDA. Remember, the only product on the market that kills one-third of its purchasers is tobacco, if used as directed.

I could go on and on with these rhetorical questions. Clearly, we know tobacco is the only product on the market that is advertised and sold without any government oversight.

I don't understand how 35 or so of our colleagues think the answer to our pushing for this is no. But then again, that is the answer we get back from the other side of the aisle a lot. I am very grateful to the eight or nine Republicans who joined us. Without them,

we wouldn't be here today. As I did on the stimulus, thanking those three who had the bravery to say yes, I thank the eight or nine who had the bravery to say yes and move to regulate tobacco. Food is regulated. Drugs are regulated. Consumer products are regulated. Tobacco is not. We know this bill could prevent 80,000 tobacco-related deaths every year.

It makes me sad to think that over the years our failure to address this issue is having the greatest impact on our Nation's children. Ninety percent of all new smokers are children. I have spoken to the tobacco executives and watched them being interviewed. "Oh, we just don't want kids to get our products." Please. It is embarrassing that they can say that with a straight face when they have invented all kinds of new products, including tobacco candy. You know, there is an old cliché that "this is so easy, it is like giving candy to a baby." We know kids love candy, and what happens if you lace that candy with an addictive product? The answer is that we get a lot of kids hooked on tobacco who cannot quit when they get older.

Claims by the tobacco industry that these products are safe alternatives to smoking and they are not designed to attract kids, frankly, just don't add up. You know what they are doing. We know adult smokers are finally saying no; they are quitting, thank goodness. It is very difficult. I have watched it up close with family and friends, and some of them who quit for 2, 3 years go right back again, and it is worse than ever. This isn't easy. Don't say you are creating a safer product when you create tobacco candy, a smokeless tobacco. We know smokeless tobacco can lead to oral cancer, gum disease, heart attacks, heart disease, cancer of the esophagus, and cancer of the stomach. Smokeless tobacco products are only the latest effort by the tobacco companies to market tobacco products that they claim pose a reduced risk.

Cigarettes contain 69 known carcinogens and hundreds of other ingredients that contribute to the risk of all of the diseases I mentioned. Yet the tobacco industry is not required to list the ingredients of its products as all food products have to do. We have a right to know the calories, sugar, protein, and all those things when we eat food, but for cigarettes they don't have to list the ingredients.

The bill will make it so that we finally know what is contained in these products. The legislation will grant the FDA the authority to ban the most harmful chemicals used in tobacco and even to reduce the amount of nicotine.

A 2006 Harvard School of Public Health study revealed that the average amount of nicotine in cigarettes actually rose 11.8 percent from 1997 to 2005. How can my colleagues on the other side, who voted pretty much en masse against this bill, say we should just keep it open to amendment? How can they explain that even after all these

years, now that we know the risks of tobacco? There were reasons in the early years when we didn't know how serious it was. That is one thing. But here they have a situation where recently they raised the amount of nicotine. There is no rhyme or reason for that.

This bill will give the FDA the authority to require stronger warning labels, prevent industry misrepresentations, and regulate "reduced harm" claims about tobacco products. If you die because you use smokeless tobacco but say you die from a heart attack, you are still dead. This Congress and the President have committed to reducing health care costs through comprehensive reform. This legislation is such an important step on the way because lung cancer is a preventable disease. It is preventable, as well as the heart risks associated with smoking. Investing in prevention and wellness will enable us to increase access to quality health care while reducing costs.

Tobacco use results in \$96 billion in annual health care costs, and in California alone—my State—we spend \$9.1 billion on smoking-related health care costs. Everybody who has a heartbeat and a pulse today knows that my State suffers mightily from a terrible budget crisis—\$20 billion. We don't know where to look, what to do. People never put together the fact that smoking is causing our health care costs to swell. If my State could save \$9.1 billion on smoking-related health care costs, that really saves the education system and a lot of other important things we do in our State.

Preventive medicine and giving the authority to the FDA to vigorously enforce some strict, new laws about cigarettes is going to make a positive difference. I am proud to be here in support of this important legislation.

I wish to say again to Senator KENNEDY, if he is watching this debate, how much I respect, admire, and miss him and his presence here on this bill. If he were here, he would be roaring from the back of the Chamber about this, in the best of ways, and challenging us to move forward on this bill as quickly as we can.

The House has acted. Once the Senate acts, we can have a conference—or maybe the House will take the Senate bill—and this bill will be on the President's desk before we do health care reform. Imagine what a great preamble this would be to health care reform—tackling this incredible problem in our society, tobacco use, an incredible problem in our society that causes so much suffering and dependence and so much addiction, so much cost—if we are able to tackle this as a preamble to our health care reform, I would be so proud. I know each and every one of us who will support this will be very proud. I know President Obama will be very proud. He has struggled with tobacco addiction. He knows how tough it is to say no to cigarettes. Clearly,

the best way is to prevent someone from getting addicted in the first place.

I don't want my grandkids being lured into smoking by looking at a box of candy cigarettes and trying one, two, three, and four. I don't want that for anybody's grandkids. If people decide when they are older, when they know all of the facts, that they are going to smoke, in many ways that is their problem. But it is our job to let them know the risks and dangers. Very clearly, we have been dancing around the edges with these little warning labels, but we have not controlled tobacco. We need to do that.

I urge all of my colleagues on both sides of the aisle—again, thanking the eight or nine Republicans for joining us—to make an investment in the health of the American people and support this legislation.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. BOXER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mrs. BOXER. Madam President, I ask unanimous consent that the order for the vote with respect to the Burr-Hagan amendment be modified to provide that the vote occur at 4:20 p.m. under the same conditions as previously ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

JUDGE SONIA SOTOMAYOR

Mr. LEAHY. Madam President, for the sake of my colleagues, I want to talk about the timing of the Judge Sotomayor nomination.

I talked with the distinguished ranking member last week on this schedule, and I would note the concerns he raised, but I am announcing today that the Senate Judiciary Committee will hold the confirmation hearing on the nomination of Judge Sonia Sotomayor to be Associate Justice of the U.S. Supreme Court on July 13.

I have talked and met with Senator SESSIONS, the committee's ranking member, several times to discuss the scheduling of this hearing. I will continue to consult with Senator SESSIONS